



## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 36605]**

### **Northern Illinois & Wisconsin Railway Corporation, d.b.a. NIWX Corporation— Control Exemption—West Erie Short Line, Inc.**

Northern Illinois & Wisconsin Railway Corporation, d.b.a. NIWX Corporation (NIWX), has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to acquire control of West Erie Short Line, Inc. (WESL), a Class III carrier, from EFCO, Inc., d.b.a. Ajax/CECO/Erie Press (EFCO), a noncarrier.

The transaction may be consummated on or after August 11, 2022, the effective date of the exemption (30 days after the verified notice was filed).<sup>1</sup>

According to the verified notice of exemption, NIWX indirectly controls Blackwell Northern Gateway Railroad Company (BNG) by virtue of controlling US Rail Partners, Ltd. (USRP), which owns all of BNG's stock. The verified notice additionally indicates that Davenport Industrial Railroad, LLC, is affiliated with, but not controlled by, NIWX.

The verified notice indicates that: (1) WESL does not connect with the rail lines of any of the rail carriers in NIWX's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect WESL with the rail lines of any carriers in NIWX's corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to

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<sup>1</sup> NIWX supplemented its verified notice of exemption on July 7 and July 12, 2022. Therefore, July 12, 2022, is considered the filing date for the purpose of calculating the effective date of the exemption.

relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 4, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36605, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on NIWX's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 2230 Marston Lane, Flossmoor, IL 60422-1336.

According to NIWX, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: July 25, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

**Eden Besera,**

*Clearance Clerk.*